IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 22158 of 2004

Between:

M.Ramasubba Reddy S/o.M.N.Subba Reddy
Occ: Fair Price shop dealer, Palkur village, Banaganipalli (M).
Kurnool District.

.... PETITIONER

AND

1 The Joint Collector
Kurnool Dist.
2 The Revenue Divisional Officer
Nandyal, Kurnool Dist,
3 The Mandal Revenue Officer
Banaganipalli Mandal, Kurnool Dist,

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd Respondent in issuing the proceedings in Rc.1193/2004 dt 14-11-2004 as illegal, arbitrary, and violative of principles of natural justice and also against the provisions of control order 2001 and consequently direct the respondents to restore the authorization of the petitioner by suspending impugned proceedings pending the appeal before the 1st Respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.K.V.CHALAPATHI RAO

Counsel for the Respondents.: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following:

ORDER : -

The petitioner was appointed as a Fair Price shop dealer of Palkur village, Banaganipalli Mandal, Kurnool District. His authorization was suspended by the second respondent through proceedings, dated 14.11.2004. Aggrieved by the same, he filed an appeal before the first respondent, together with an application for stay. The first respondent is said to have made an endorsement to the effect that the appeal is taken on file, but the stay petition is rejected. The petitioner complains that no such order has been communicated, and seeks appropriate directions in this regard.

2. Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

3. The only ground on the basis of which the authorization of the petitioner was suspended is that he was shown as accused in Crime No.100 of 2004, for offences under Sections 405, 409, 415, 420 and 341 I.P.C of Nandivargam P.S. The allegation against the petitioner is that he colluded with the Sarpanch in misappropriating the funds of the Gram Panchayat.

4. Under clause 3(v) of the annexure to the A.P. State Public Distribution System Control Order, 2001 (for short “the control orders”), it is competent for R.D.O to suspend the authorization of a fair price shop dealer, if he is involved in any criminal case, or where such a case is pending against him. An appeal against such order is provided for, under sub-clause (6). The very fact that the appeal is provided discloses that the orders passed by the R.D.O suspending the authorization on the sole ground of involvement of the fair price shop dealer in a criminal case, is subject to verification.

5. Though the said clause provides for suspension, it is not as if such a course of action should be adopted, irrespective of the nature of involvement or gravity of the

crime. The allegation against the petitioner is not that he has misappropriated any amounts, nor does the case relate to the running of fair price shop. The petitioner is alleged to have abetted another person in misappropriating the funds. Hence, it cannot be said that the circumstances warrant suspension of the authorization.

6. Hence the writ petition is allowed, directing that the petitioner shall be entitled to function as fair price shop dealer, till the disposal of the appeal by the first respondent. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 03rd November, 2004

RAR

To

1 The Joint Collector
Kurnool Dist.
2 The Revenue Divisional Officer
Nandyal, Kurnool Dist,
3 The Mandal Revenue Officer
Banaganipalli Mandal, Kurnool Dist,

4 2 CCs to G.P for Civil Supplies, High Court Buildings, Hyd.(OUT)

5 2 CD copies.